

Food and Nutrition Service, USDA

§ 250.69

total quantities available for distribution to such institutions.

(e) *Contracts with food service management companies.* A charitable institution may use donated foods in a contract with a food service management company. The contract must ensure that all donated foods received for use by the charitable institution in a fiscal year are used in the charitable institution's food service. However, the charitable institution is not subject to the other requirements in subpart D of this part relating to the use of donated foods under such contracts.

[73 FR 46184, Aug. 8, 2008]

§ 250.68 Nutrition Services Incentive Program (NSIP).

(a) *Distribution of donated foods in NSIP.* The Department provides donated foods in NSIP to State Agencies on Aging and their selected elderly nutrition projects, for use in providing meals to elderly persons. NSIP is administered at the Federal level by DHHS' Administration on Aging (AoA), which provides an NSIP grant each year to State Agencies on Aging. The State agencies may choose to receive all, or part, of the grant as donated foods, on behalf of its elderly nutrition projects. The Department is responsible for the purchase of the donated foods and their delivery to State Agencies on Aging. AoA is responsible for transferring funds to the Department for the cost of donated food purchases and for expenses related to such purchases.

(b) *Types and quantities of donated foods distributed.* Each State Agency on Aging, and its elderly nutrition projects, may receive any types of donated foods available in food distribution or child nutrition programs, to the extent that such foods may be distributed cost-effectively. Each State Agency on Aging may receive donated foods with a value equal to its NSIP grant. Each State Agency on Aging and elderly nutrition projects may also receive donated foods under Section 32, Section 416, and Section 709, as available, and under Section 14 (42 U.S.C. 1762(a)).

(c) *Role of distributing agency.* The Department delivers NSIP donated foods to distributing agencies, which distribute them to elderly nutrition

projects selected by each State or Area Agency on Aging. The distributing agency may only distribute donated foods to elderly nutrition projects with which they have signed agreements. The agreements must contain provisions that describe the roles of each party in ensuring that the desired donated foods are ordered, stored, and distributed in an effective manner.

(d) *Donated food values used in crediting a State Agency on Aging's NSIP grant.* FNS uses the average price (cost per pound) for USDA purchases of a donated food made in a contract period in crediting a State Agency on Aging's NSIP grant.

(e) *Coordination between FNS and AoA.* FNS and AoA coordinate their respective roles in NSIP through the execution of annual agreements. The agreement ensures that AoA transfers funds to FNS sufficient to purchase the donated foods requested by State Agencies on Aging, and to meet expenses related to such purchases. The agreement also authorizes FNS to carry over any such funds that are not used in the current fiscal year to make purchases of donated foods for the appropriate State Agencies on Aging in the following fiscal year.

[73 FR 46184, Aug. 8, 2008]

§ 250.69 Disaster food assistance.

(a) *Organizational eligibility.* In instances in which the President has declared a disaster and FNS has determined that, as a result of the disaster, low-income households are unable to purchase adequate amounts of nutritious food, disaster organizations (including agencies of State and Federal government) may be eligible to receive donated foods for congregate meal service or household distribution to disaster victims. Applications submitted by disaster organizations to the distributing agency for the receipt and distribution of donated foods in accordance with paragraphs (b)(2) and (c)(2) of this section shall be initially submitted in writing if circumstances permit and, if not, confirmed in writing in a timely manner. Both the applications and the written approval for the use of USDA commodities shall be maintained in accordance with the record-keeping requirements of this part.